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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

GENERADORES MEXICANOS, S.A DE, CV.,

Plaintiff,

03:07-CV-79-ECR-VPC

vs.

03:08-CV-598-ECR-VPC

MINUTES OF COURT

HESS MICROGEN, LLC,

Date: February 5, 2009

Defendant.

PRESENT: EDWARD C. REED, JR., SENIOR U.S. District Judge

Courtroom Deputy: Colleen Larsen; Court Reporter: Donna Davidson

Counsel for Plaintiff: Jack Angaran; Brian Gonsalves; Cameron Walker

Counsel for Defendant: Christopher Raleigh; Brian Irvine; Geoff Ferrer;
Ed Hayum

**MINUTES OF HEARING MOTIONS (#57, #63, in case 03:07-CV-79-ECR), (and #4 filed
in case 03:08-CV-598):**

At 3:00 P. M. Court convenes. Counsel Walker, Raleigh, Ferrer and Hayum are present via telephone conference.

The Court makes its findings for the record.

IT IS HEREBY ORDERED that the notice of modification of proposed complaint and motion to amend complaint, withdrawing Hess Corporation as a proposed named defendant (#81, filed in 03:07-CV-79), is STRICKEN.

IT IS FURTHER ORDERED that plaintiff's motion to amend complaint (#57, filed in 03:07-CV-79), is GRANTED. Plaintiff shall file the proposed Second Amended Complaint within fifteen (15) days from date of entry of this order.

Plaintiff shall correct the title of the Second Amended Complaint to reflect that it is the Second Amended Complaint, rather than the Third Amended Complaint. This order granting amendment of the complaint shall be deemed to be entered nunc pro tunc as of the date of the filing of the motion, thus July 3, 2008.

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IT IS FURTHER ORDERED that plaintiff's motion to amend the scheduling order, contained within its reply (#61, filed in 03:07-CV-79), to permit the filing of the second amend complaint, is GRANTED. The issue of further amendments to the scheduling order in case 03:07-CV-79, as may be required because of these orders of the Court, is referred to the Magistrate Judge for consideration and decision.

IT IS FURTHER ORDERED that defendant's motion for summary judgment (#63 in case 03:07-CV-79), is GRANTED, with respect to the following: the claim of negligence in the Second Amended Complaint, cause of action #5; and, the claim for lost profits in the Second Amended Complaint.

IT IS FURTHER ORDERED that defendant's motion for summary judgment (#63 in case 03:07-CV-79), as to the Second Amended Complaint, is DENIED, with respect to the following: 1) the claim regarding revocation of acceptance, which is cause of action No. 1; 2) the claim of misrepresentation, which is cause of action No. 2; 3) the claim of breach of contract, which is cause of action #3; 4) the claim of breach of warranties, which is cause of action #4; and, 5) the claim regarding the validity of limitation of the damages clause, which is alleged in the Second Amended Complaint, but not separated out as a cause of action.

IT IS FURTHER ORDERED that defendant's motion to dismiss (#4, in case 03:08-CV-598, is GRANTED. The action is duplicative of case 03:07-CV-79, without prejudice to seeking the same relief in 03:07-CV-79.

4:20 PM, Court adjourns.

LANCE S. WILSON, CLERK

By /s/
Deputy